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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|---------------------------|---------------------|------------------|
| 10/045,133 | 10/23/2001 | Percy L. Spencer | 62601-013 | 3420 |
| 7590 04/08/2005 | | | | |
| TODD A NOAH DERGOSITS & NOAH LLP FOUR EMBARCADERO CENTER SUITE 1450 SAN FRANCISCO, CA 94111 | | EXAMINER TANG, KAREN C | | |
| | | ART UNIT 2151 | | PAPER NUMBER |

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/045,133 | Applicant(s) SPENCER ET AL. | |
| | Examiner Karen C Tang | Art Unit 2151 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/23/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/27/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Jorgensen (US 6,590,885).

1. Referring to Claims 1 and 11, Jorgensen discloses a computer implemented method for sending and receiving (refer to Col 6, Lines 25-35) multimedia transmissions (video, data, refer to Col 6, Lines 1-25) between two or more clients (users, refer to Col 12, Lines 35-50), the method comprising the steps of: determining a maximum inbound (refer to Col 19, Lines 25-45) and outbound (throughput, refer to Col 18, Lines 60-67) transmission rate for a connection between a client (remote user, refer to Col 6, Lines 33-40) and a server (refer to Col 6, Lines 33-40);

determining a latency value (refer to Col 14, Lines 50-65) for transmissions over the connection;

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determining a backlog value (delay, refer to Col 15, Lines 55-67, and Col 19) for transmissions over the connection;

and varying the inbound and outbound rates (FIFO – input rate and output rate, refer to Col 17, Lines 45-60) of transmission over the connection responsive to the backlog value and the latency value (refer to Col 15 – 19, TCP transmission).

2. Referring to Claims 2 and 7 and 11, Jorgensen discloses wherein the multimedia transmissions are comprised of data packets and varying the rates of transmission is further comprised of: varying the size of the data packets (QoS – consists of different traffic type – refer to Col 19, Lines 15-25); and varying the time interval between the transmission of each data packet (CDMA, refer to Col 16, Lines 44-67, it is inherent that CDMA transmit information with varying the time interval).

3. Referring to Claims 3, 6, and 13, Jorgensen discloses wherein varying the rate of transmission further comprises: increasing the rate of transmission if there is no backlog and the rate of transmission is below the maximum transmission rate (threshold as a lose or time-out of packet receipt acknowledgement message, refer to Col 35-45); and decreasing the rate of transmission if the backlog is above a predetermined threshold (threshold as a lose or time-out of packet receipt acknowledgement message – refer to Col 35-45).

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4. Referring to Claims 4, 9 and 14, Jorgensen discloses wherein the transmission originates at the client and terminates at the server (TCP, it is inherent that TCP sent the message/transmission from the source to destination and the message terminates at the destination, 3 way shaking).

5. Referring to Claims 5, 10 and 15, Jorgensen discloses wherein the transmission originates at the server and terminates at the client (TCP, it is inherent that TCP sent the message/transmission from the source to destination and the message terminates at the destination, 3 way shaking).

6. Referring to Claim 6, Jorgensen discloses a system for sending and receiving (refer to Col 6, Lines 25-35) multimedia data transmissions between two or more clients (video, data, refer to Col 6, Lines 1-25), the system comprising: a receiver for receiving the multimedia transmissions (refer to Col 24, Lines 29-46), a transmitter for transmitting the multimedia transmissions at a variable transmission rate (refer to Col 13, Lines 40-67); a bandwidth optimizer (circuit switched) coupled to the transmitter (refer to Col 75, Lines 40-50), the bandwidth optimizer determining a maximum inbound (refer to Col 19, Lines 25-45) and outbound transmission rate (throughput, refer to Col 18, Lines 60-67), monitoring for a backlog (delay, refer to Col 15, Lines 55-67, and Col 19) in the multimedia data transmissions (video, data, refer to Col 6, Lines 1-25), and varying the transmission rate responsive to the backlog (refer to Col 15 – 19, TCP transmission, Col 17, Lines 45-60).

Conclusion

A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen C Tang whose telephone number is (571)272-3116. The examiner can normally be reached on M-F 7 - 3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571)272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KT

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER

A handwritten signature in black ink, appearing to read 'Rupal Dharia', followed by a long horizontal line.